

1 MR. SPONAUGLE: Here's my -- I'm opposed to both of
2 them.

3 THE COURT: You're opposed to what?

4 MR. SPONAUGLE: I'm opposed to certified questions and
5 the -- well, I didn't really have a position on the order.
6 That's up to the discretion of the Court. How the Court
7 wants to do the order -- but on the certified questions.

8 THE COURT: What's this? What did you hand -- a
9 response to motion to dismiss.

10 MR. SPONAUGLE: No. I'm sorry. Judge, give me a
11 second.

12 THE COURT: Yeah. Go ahead.

13 MR. SPONAUGLE: There it is. I'll swap you.

14 THE COURT: Sir?

15 MR. SPONAUGLE: I said I'll swap you papers. There you
16 go, Judge.

17 THE COURT: Other than the media here, is somebody -- I
18 see you got -- are you recording any of this, sir?

19 You.

20 MR. MCELHINNY: Me?

21 THE COURT: Yeah.

22 MR. MCELHINNY: I was taking your picture.

23 THE COURT: Oh, that's all right.

24 MR. MCELHINNY: Yeah. Judge, I was just taking your

1	picture.	11:24:00
2	THE COURT: Why?	11:24:00
3	MR. MCELHINNY: Well, it's -- it's of news value.	11:24:00
4	THE COURT: To who?	11:24:00
5	MR. MCELHINNY: West Virginia Metro News, sir.	11:24:00
6	I'm Brad Mcelhinny.	11:24:00
7	THE COURT: Oh, that's right. You used to be the	11:24:00
8	publisher of the Daily Mail.	11:24:00
9	MR. MCELHINNY: Well, yeah. Back a lifetime ago.	11:24:00
10	THE COURT: It wasn't that long ago.	11:24:00
11	MR. MCELHINNY: Back in newspapers times.	11:24:00
12	THE COURT: Pardon?	11:24:00
13	MR. MCELHINNY: Yes, sir.	11:24:00
14	THE COURT: Yeah. Is your wife Karen Mcelhinny?	11:24:00
15	MR. MCELHINNY: Well, would you hold it against her if	11:24:00
16	she was?	11:24:00
17	THE COURT: No.	11:24:00
18	MR. MCELHINNY: Okay. Well, then she is.	11:24:00
19	THE COURT: Yeah. She hasn't been in here in a while,	11:24:00
20	but she has appeared here before me several times.	11:24:00
21	MR. MCELHINNY: I bet she misses you.	11:24:00
22	THE COURT: I don't know about that.	11:24:00
23	MR. MCELHINNY: Thank you, Judge.	11:24:00
24	THE COURT: Well, I didn't recognize you. I'm sorry,	11:24:00

1 Brad. 11:24:4

2 MR. MCELHINNY: Oh, that's quite all right. I didn't 11:24:4
3 intend to take part today. 11:24:4

4 THE COURT: Let me start with you, Mr. Sponaugle. 11:24:5

5 MR. SPONAUGLE: Yes. 11:24:5

6 THE COURT: I have not read your response having just 11:24:5
7 been given a copy of it. Looks like it's relatively short. 11:24:5

8 Why do you oppose the certified questions? 11:25:0

9 MR. SPONAUGLE: Well, I can -- I can do it basically on 11:25:0
10 -- on two points. One, there's a factual dispute between 11:25:0
11 us based on their answers and where we are. Mr. Justice 11:25:0
12 denies that he doesn't reside in the seat of the 11:25:0
13 government. He denies that he does -- he doesn't reside -- 11:25:0
14 or he does reside at Lewisburg, West Virginia, Greenbrier 11:25:0
15 County. Any test that you're going to do in regard to 11:25:0
16 residency we're going to have to fix out those facts. 11:25:0

17 But, primarily, I'll tell you why -- why -- to 11:25:0
18 the Court -- last fall I filed an original writ of mandamus 11:25:0
19 -- original jurisdiction writ of mandamus with the West 11:25:0
20 Virginia Supreme Court. They denied it at that time. 11:25:0
21 Denied it without prejudice. They have -- they could have 11:25:0
22 denied it with prejudice and basically shot all these legal 11:25:0
23 issues down. They are the same arguments based -- in 11:25:0
24 essence -- same arguments that are being presented back 11:25:0